

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

MICHAEL KLIMEK,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-09-345-D
	)	
PAUL A. KASTNER, Warden,	)	
	)	
Respondent.	)	

**REPORT AND RECOMMENDATION**

Mr. Michael Klimek has filed a petition for habeas relief. Rather than pay the filing fee, Mr. Klimek moved for leave to proceed *in forma pauperis*. The motion indicates that Mr. Klimek has \$212.21, and the filing fee is only \$5.00.<sup>1</sup> Because Mr. Klimek has adequate funds for the filing fee, the undersigned recommends that the Court: (1) deny the motion for leave to proceed *in forma pauperis*, (2) order payment of the filing fee within twenty days,<sup>2</sup> and (3) dismiss the action without prejudice if Mr. Klimek fails to timely pay the filing fee or show good cause for the failure to do so. *See* W.D. LCvR 3.3(e).

The Petitioner is advised of his right to object to this report and recommendation by April 20, 2009. *See* W.D. Okla. Local Civil Rule 72.1. If the Petitioner does object, he must file a written objection with the Court Clerk for the United States District Court, Western District of Oklahoma. The Petitioner is further advised that if he does not timely object, he

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<sup>1</sup> *See* 28 U.S.C. § 1914(a) (2000).

<sup>2</sup> *See* W.D. Okla. LCvR 3.3(e).

would waive his right to appellate review over a denial of pauper status in the district court.

*See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation terminates the referral.

Entered this 31st day of March, 2009.

A handwritten signature in cursive script that reads "Robert E. Bacharach". The signature is written in dark ink and is positioned above a horizontal line.

Robert E. Bacharach  
United States Magistrate Judge